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UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

**RHONDA WILLIAMS,**

Plaintiff,

vs.

**PERFORMANT RECOVERY, INC., &  
NATIONAL ENTERPRISE SYSTEMS,**

Defendants.

Case No.: 3:14-cv-276

**COMPLAINT;**

FAIR DEBT COLLECTION PRACTICES  
ACT (15 U.S.C. § 1692a, *et seq.*);

DEMAND FOR JURY TRIAL

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**I. INTRODUCTION**

1. This is an action for damages brought by an individual consumer for Defendants' violations of the federal Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (hereinafter "FDCPA").

**II. JURISDICTION**

2. Plaintiff's claim for violations of the FDCPA arises under 15 U.S.C. § 1692k(d), and therefore involves a "federal question" pursuant to 28 U.S.C. § 1331.

**III. PARTIES**

3. Plaintiff, Rhonda Williams, ("Plaintiff"), is a natural person residing in Columbia County, Oregon.

4. Defendant, Performant Recovery, Inc. (“Defendant Performant”), is a corporation engaged in the business of collecting debts by use of the mails and telephone. Defendant Performant regularly attempts to collect debts alleged due another.

5. Defendant, National Enterprise Systems (“Defendant NES”), is a corporation engaged in the business of collecting debts by use of the mails and telephone. Defendant NES regularly attempts to collect debts alleged due another.

#### **IV. FACTUAL ALLEGATIONS**

6. Defendants are each a “debt collector” as defined by the FDCPA, 15 U.S.C. § 1692a(6).

7. Plaintiff is a “consumer” as defined by the FDCPA, 15 U.S.C. § 1692a(3).

8. All activities of Defendants set out herein were undertaken in connection with the collection of a “debt,” as defined by 15 U.S.C. § 1692a(5).

9. Within the last year, Defendants took multiple actions in an attempt to collect a debt from Plaintiff. Defendant’s conduct violated the FDCPA in multiple ways, including the following.

10. Using false representations and deceptive practices in connection with collection of an alleged debt from Plaintiff, including Defendant Performant failing to notify its client that Plaintiff was represented by counsel, leading to another debt collector, Defendant NES, sending Plaintiff a letter directly instead of through counsel (§ 1692e(10)).

11. Where Defendant NES had not yet made an attempt to contact Plaintiff’s

counsel or had not given Plaintiff's counsel sufficient time to respond to the initial attempt to communicate with Plaintiff's counsel, and where Plaintiff's counsel had not given Defendant NES permission to contact Plaintiff directly, Defendant NES communicating with Plaintiff directly after it knew or should have known that Plaintiff was being represented by counsel (§ 1692c(a)(2)).

12. Defendant NES failing to effectively convey the identity of the creditor to whom the debt is owed in the initial letter sent to Plaintiff. The letter in question stated both "re: National Collegiate Trust" (an entity that does not exist) and "for: Winthrop University", but did not effectively convey who of these, or perhaps someone else, was the current creditor for the debt (1692g(a)).

13. As a result of the aforementioned violations, Plaintiff suffered and continues to suffer injuries to Plaintiff's feelings, personal humiliation, embarrassment, mental anguish and severe emotional distress.

14. Defendants intended to cause, by means of the actions detailed above, injuries to Plaintiff's feelings, personal humiliation, embarrassment, mental anguish and severe emotional distress.

15. Defendants' actions, detailed above, were undertaken with extraordinary disregard of, or indifference to, known or highly probable risks to purported debtors.

16. To the extent Defendants' actions, detailed in paragraphs above, were carried out by an employee of either Defendant, that employee was acting within the scope of his or her employment.

**COUNT I: VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT**

17. Plaintiff reincorporates by reference all of the preceding paragraphs.

18. The preceding paragraphs state a *prima facie* case for Plaintiff and against Defendants for violations of the FDCPA.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendants for the following:

- A. Declaratory judgment that Defendants' conduct violated the FDCPA;
- B. Actual damages pursuant to 15 U.S.C. 1692k;
- C. Statutory damages pursuant to 15 U.S.C. § 1692k;
- D. Costs, disbursements and reasonable attorney's fees for all successful claims, and any unsuccessful claims arising out of the same transaction or occurrence as the successful claims, pursuant to 15 U.S.C. § 1692k; and,
- E. For such other and further relief as may be just and proper.

**PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY**

Dated this 18<sup>th</sup> day of February, 2014.

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